

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

JOSE RODRIGUEZ,)	
)	
PLAINTIFF)	
)	
v.)	CIVIL No. 03-291-P-H
)	
TAMBRANDS INCORPORATED,)	
ET AL.,)	
)	
DEFENDANTS)	

ORDER ON MOTION TO REMAND

The plaintiff's motion to remand is **GRANTED**.

The defendant Tambrands' consent to the removal was timely. The plaintiff's argument to the contrary, based upon informal service, ignores the holding of Murphy Brothers, Inc. v. Michetti Pipe Stringing, Inc., 526 U.S. 344 (1999). But the complaint does not in fact state a federal claim, and the defendants have abandoned their diversity of citizenship basis for removal. There is therefore no basis for jurisdiction in this federal court. The plaintiff's request for attorney fees and costs, however, is **DENIED**. The defendants could legitimately have been confused about whether the plaintiff might make some federal claim in light of the reference to the EEOC filing and, as stated above, the attempted removal was timely.

So ORDERED.

DATED THIS 23RD DAY OF FEBRUARY, 2004.

/s/D. BROCK HORNBY
D. BROCK HORNBY
UNITED STATES DISTRICT JUDGE

**U.S. DISTRICT COURT
DISTRICT OF MAINE (PORTLAND)
CIVIL DOCKET FOR CASE #: 2:03cv291**

JOSE RODRIGUEZ

Plaintiff

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ADECCO

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